(1) Supreme Court, U.S.

001094 DEC 27 2000

No. _____ OFFICE OF THE CLERK

IN THE

Supreme Court of the United States

ERVIN C. PALMER, et ux.,

Petitioner(s),

v.

RAYMOND L. DUFF,
VERN E. ZIEGLER,
BRUCE R. SMITH,

Respondent(s).

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Ninth Circuit

PETITION FOR A WRIT OF CERTIORARI

Ervin C. Palmer, Pro Se
HC-1 Box 360
Inchelium, WA. 99138
(509) 722-3092

16 pp

QUESTIONS PRESENTED

1. Can State statute of limitations overrule Federal laws that (quote) "Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them". (unquote).?

2. Can statute of limitations apply to crimes that are ongoing?

3. Can crimes committed against the U. S. Constitution become law?

4. Can parties enforce agreements that are contrary to the Constitution and its securities?

5. Does fraud vitiate an agreement that concerns and involves one's civil rights?

6. Can defendants, who by their own acts and admissions of wrongs, come to court with "Clean Hands" and expect relief?

PARTIES TO THE PROCEEDING

The parties to this proceeding are petitioner Ervin C. Palmer, et ux and respondents Raymond L. Duff, Vern E. Ziegler, and Bruce R. Smith.

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TABLE OF AUTHORITIES

1. U. S. Constitution and it's Bill of Rights specifically Amendment I, IV, V, VII, and XIV.

2. Miranda v. Arizona 384 U.S. 436 P.491 (quote) "Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them". (unquote)

3. U. S. Supreme Court Hafer v. Melo, 502 U.S. 21 (1991) State Officials can be sued for violating rights.

4 "Clean Hands Doctrine" Blacks Law Sixth Edition. Franklin v. Franklin, 365 MO 442, 283 S.W. 2d 483, 486. Fair Automotive Repair, Inc. v. Car-X Service Systems, Inc. 2. Dist., 128 Ill. App. 3d 763, 84 Ill. Dec. 25, 471 N.E. 2d 554, 558.

5 McDougal v. County of Imperial, 942 F. 2d 668 (9th Cir. 1991).

6. Grimes v. City and County of San Francisco, 951 F. 2d 236 (9th Cir. 1991) 951 F.2d 236. "The continuing violation doctrine is intended to allow a victim of systematic discrimination to recover for injuries that occurred outside the applicable limitations period".

7. E.E.O.C. v. Local 350, Plumbers & Pipefitters, 998 F. 2d 641 (9th Cir. 1992) 998 F. 2d 641. "No part of a continuing violation which persists into the period within which suit is allowed is time-barred". Malhotra v. Cotter & Co., 885 F. 2d 1305, 1310 (7th Cir. 1989) (Continuing violation doctrine in 42 U. S. C. 1981 claims).

TABLE OF AUTHORITIES – Continued

8. U. S. 9th Circuit Court of Appeals, O'Loughlin v. County of Orange 9856774, Under the continuing violation doctrine in this circuit, if a discriminatory act takes place within the limitations period and that act is "related and similar to" acts that took place outside the limitations period, all the related acts – including the earlier acts – are actionable as part of a continuing violation. Anderson v. Reno, 190 F. 3d 930, 936 (9th Cir. 1999). See also Fielder v. UAL Corp., 218 F. 3d 973, 987-88 (9th Cir. 2000). Draper v. Coeur Rochester, Inc. 147 F. 3d 1104, 1108-11 (9th Cir. 1998)

9. Title VI of the Civil Rights Act of 1964 and section 504 of the Rehabilitation Act of 1973.

10. Marbury v. Madison, U.S. (2 Cranch) 137, 174, 176, 1803. Norton v. Shelby County 118 U.S. 425 P. 442.

11. The General rule of unconstitutional statutes. 16 AM JUR 2nd, SEC 256.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Ervin C. Palmer et ux respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit in this case.

OPINIONS BELOW

Memorandum filed August 17, 2000, and an order filed October 31, 2000. Both documents were before: Wallace, Sneed, and Schroeder, Circuit Judges. The opinions will be listed for page no. in the table of contents. En banc hearing was filed August 26, 2000.

JURISDICTION

The Court of Appeals entered it's findings on August 17, 2000. A petition for hearing en banc was filed August 26, 2000 and was denied by the Court of Appeals on October 31, 2000.

The jurisdiction of this Court is invoked under Statute 28 U.S.C. § 1254 (1).

STATEMENT OF THE CASE

Factual Background

The defendants were public officials acting under color of state law, under oath of office. Raymond L. Duff and Bruce R. Smith retired in 1999, and Vern E. Ziegler some years prior. The defendants, in concert with others, conspired to make an agreement that when implemented violated rights secured by the U. S. Constitution. The agreement contained provisions that a lawsuit would be dropped and the requirements for private land owners to use and harvest their fee patent and homestead lands was to be based on a blood quantum of a certain tribe of Indians.

The defendants Vern E. Ziegler, acting as a commissioner, Raymond L. Duff and Bruce R. Smith, acting as regional directors, and others, unlawfully seized several thousand acres of land by using their Emergency Powers when no such emergency existed. Their actions denied due process and affected citizens who were invited by Executive Orders of the Presidents, under mineral entry and the Homestead Laws, receiving patents on these lands, which several thousand citizens settled, developed, raised families, harvested and have lived on for well over 100 years.

The results turned criminal. (reference mode of operation of emergency orders and agreement, Ziegler's interogs and letter of pleading of 1997) reference all documents.

Plaintiff has provided the defendants with documentation showing the truths, lies, frauds, and crimes they can not deny. Defendants have ignored the facts, mislead the courts thus corrupting state ledgers.

The defendant's defense team, backed by the State's Attorney General Office, knows the facts and laws are on the side of the plaintiff and should the plaintiff get this case before a jury, the plaintiff will have a 100% probability of winning.

Defendants have compounded their crimes into multi-million dollar damages and allowed many to become entangled, aiding and abetting many others to continue the racial discrimination and seizures without just compensation. (reference Ziegler's letter 1997). The facts show that their crimes have become law and made permanent from September 15, 1982 continuing through the year 2000.

The only leg the defendants are trying to stand on is the State's statute of limitations.

The facts will show that the Ninth Circuit misapplied McDougal v. County of Imperial, 942 F.2d 668 (9th Cir. 1991).

The Ninth Circuit determined McDougal did not allege and shows wrongful acts occurred after 1985. Therefore the Ninth Circuit determined the continuing violations doctrine was of no assistance and did not apply. McDougal was time barred by filing on October 3, 1989. (late)

The McDougal case was misapplied to the Palmer case because the crimes against the Palmers have never ceased.

Plaintiffs therefore pray that the U. S. Supreme Court return our equal rights as citizens on our own fee simple patented lands as the many thousands have had before us and give relief to the several thousand impacted now, to secure the equal rights of our heirs and those citizens yet to come. We

pray the Supreme Court remand the Plaintiffs case back for trial by jury and for damage compensation.

REASONS FOR GRANTING THE PETITION

1. Conflict of State laws with Frderal rules on issues impacting Civil Rights, Rights Secured, and the U. S. Constitution.

2. Important public issues that will impact thousands of citizens that were directly damaged. More importantly it will reaffirm our Constitution and it's Bill of Rights, by stating loud and clear that no State Agency or their Officials can levy a crime of tort against it's citizens.

Using that logic, granting the petition, every citizen in the U.S. will benefit knowing they and their private lands are secure, secured by the U.S. Constitution and it's Bill of Rights.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Ervin C. Palmer, Pro Se.

HC-1 Box 360
Inchelium, WA. 99138
(509) 722-3092

NOT FOR PUBLICATION

FILED
August 17, 2000
Cathy A. Catterson, Clerk
U.S.Court of Appeals

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Ervin C. Palmer,	)	D.C.No.
	)	CV-99-237-AAM
Plaintiff-Appellant,	)	
	)	
v.	)	
	)	
Vern E. Ziegler,	)	
Raymond L. Duff,	)	
Bruce R. Smith,	)	
	)	
Defendants-Appellees.	)	MEMORANDUM
	)	

Appeal from the United States District Court
For the Eastern District of Washington
Alan A. McDonald, Senior District Judge, Presiding

Submitted Ausust 7, 2000

Before: Wallace, Sneed, and Schroeder, Circuit Judges.

Ervin Palmer appeals pro se from the district court's summary judgment, based on statute of limitations, for the defendants in his 42 U.S.C.§§ 1983, 1985 (3) and 1986action alleging that officials at the Washington State Game

Department violated his Constitutional Rights by enacting Emergency Order No. 176 in 1982. We have jurisdiction pursuant to 28 U.S.C.§ 1291. We review denovo a grant of summary judgment, see Robi v. Reed, 173 F.3d 736, 739 (9th Cir. 1999), and we affirm.

Palmer's contention that the statute of limitations does not apply to his claims is without merit. See e.g., McDougal v. County of Imperial, 942 F.2d 668, 673-74 (9th Cir. 1991) (applying statute of limitations to section 1983 and 1985 (3) claims); Ellis v. City of San Diego 176 F.3d 1183, 1189 (9th Cir. 1999). (applying statute of limitations to section 1986 claim).

The district court properly granted summary judgment on Palmer's claims, filed in 1999, because Palmer failed to demonstrate that the defendants violations are continuing. See McDougal, 942 F.2d at 674-75 (concluding that continuing impact from past violations is not actionable).

Palmer's remaining contentions are without merit.

AFFIRMED.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Filed August 26, 2000
No. 00-35110
D.C. No.CV-99-237-AAM

PETITION FOR HEARING EN BANC

Ervin C. Palmer,	)
	)
Plaintiff-Appellant,	)
	)
v.	)
	)
Vern E. Ziegler,	)
Raymond L. Duff,	)
Bruce R. Smith,	)
	)
Defendants-Appellees.	)
	)

The panel Memorandum conflicts with rulings of the United States Supreme Court. "Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them". Miranda v. Arizona, 384 U.S. 436 P. 491.

The Ninth Circuit three Judge MEMORANDUM raises a Federal question of exceptional importance. And the question is: Where rights secured by the Constitution are involved, can there be any rule making or legislation abrogating those rights?

Example: Where rights (my property) secured (inalienable) by the Constitution are involved, there can be no rule making (WAC 232-12-24401) or legislation (RCW 77.12.040) which would abrogate, (nullify, abolish, repeal) them. (rights).

Refer to Respondants Supplemental Exerpts of record for their rule of regulation Ser 9 Exhibit 1.

Another view of the Federal question: Does RCW's and WAC's supersede and override the Constitution for the United States of America? We are a nation of laws, not men. The Constitution for the United States of America is the Supreme Law.

The No. 00-35110, D.C. No. CV 99-237-AAM. MEMORANDUM, Submitted August 7, 2000.

I deny the wording of officials in line one (1) of page 2.

I deny that I am sueing the defendants as officials. I am sueing the defendants as individuals in their own person.

The takings that started on or about September 15, 1982 is continuing to violate my rights, as of this date.

It is impossible for laws which violate the Constitution to be valid. (Reference Marbury v. Madison), U.S. (2 Cranch) 137, 174, 176, 1803. Norton v. Shelby County 118 U.S. 425 P.442. Reference the general rule of unconstitutional statutes. 16 AM JUR 2nd, Sec. 256.

Respectfully,
Ervin C. Palmer Pro Se

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED
October 31, 2000
Cathy A. Catterson, Clerk
U.S.Court of Appeals

No. 00-35110

DC#CV-99-00237-AAM
Eastern California
(Yakima), WA.

Ervin C. Palmer,	)	
	)	
Plaintiff-Appellant,	)	
	)	
v.	)	
	)	
Vern E. Ziegler,	)	
Raymond L. Duff,	)	
Bruce R. Smith,	)	
	)	
Defendants-Appellees.	)	ORDER
	)	

Before: Wallace, Sneed, and Schroeder, Circuit Judges.

The panel has voted to deny appellant's petition for panel rehearing. Judge Schroeder votes to deny the petition for rehearing en banc, and Judges Wallace and Sneed so recommend.

The full court has been advised of the petition for rehearing en banc and no judge requested a vote on whether to rehear the matter en banc. See Fed. R. App. P. 35.

The petition for panel rehearing and the petition for rehearing en banc are denied. No Further filings shall be accepted in this closed appeal.

AFFIRMED